

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

616E0502

HOUSE BILL NO. 1175

Introduced by: Representatives Olson (Mel), Bartling, Bradford, Burg, Davis, Hanson (Gary), Hargens, Hundstad, Kloucek, Lange, Nachtigal, Nesselhuf, Sigdestad, and Van Norman and Senators Hutmacher, Koetzle, Moore, Reedy, Sutton (Dan), and Volesky

1 FOR AN ACT ENTITLED, An Act to create a low income pharmaceutical assistance program
2 and to provide an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Department," the Department of Social Services;

6 (2) "LIPAP," the low-income pharmaceutical assistance program.

7 Section 2. There is hereby established the low income pharmaceutical assistance program
8 to provide eligible persons with assistance in paying for pharmaceutical drugs.

9 Section 3. Any person desiring LIPAP assistance shall submit a written, signed application
10 for assistance to the Department of Social Services. At the time of application the person shall
11 produce proof of all household income, documentation of the household's pharmaceutical drug
12 costs, and proof of vulnerability. For the purposes of this section, a vulnerable household is one
13 that is responsible for paying for it's own pharmaceutical drug costs and seven and one-half
14 percent of the household's income goes toward the payment of pharmaceutical drugs.

1 Section 4. Any person residing in an institution is not eligible for LIPAP assistance. For the
2 purposes of this section, an institution is a facility that provides living quarters and services for
3 a particular person or group of persons, including group homes, nursing homes, higher education
4 facilities, facilities administered by the Department of Human Services under § 1-36A-1.3,
5 facilities administered by the Department of Corrections under § 1-15-1.4, the South Dakota
6 State Veterans' Home administered by the Department of Military and Veterans' Affairs under
7 § 33-18-1, community residential facilities, community habilitation facilities, residential treatment
8 centers, special education units, residential school programs, and adjustment training centers.

9 Section 5. To be eligible for LIPAP, a household's income may not exceed one hundred forty
10 percent of the federal poverty level established in 65 Fed. Reg. 7,555. To determine whether a
11 non-self-employed household is income eligible, the department shall compute the household's
12 gross income for the three months or the ninety days, whichever is less, immediately prior to the
13 application. The result multiplied by four must fall within the income limits established in 65 Fed.
14 Reg. 7,555 for a household of similar size.

15 A self-employed household's income shall be based on either the household's gross income
16 for the past twelve months or the household's gross income as shown on its most recent tax
17 return.

18 Section 6. The department shall promulgate rules pursuant to chapter 1-26 in the following
19 areas:

- 20 (1) Income exclusions;
- 21 (2) Income to be included for self-employed households;
- 22 (3) Maximum benefit for each household.

23 Section 7. The department shall base the benefit levels for an eligible household on the
24 household's income and the cost of the pharmaceutical drugs required.

1 Section 8. The department shall determine LIPAP eligibility within sixty days after the date
2 of the application. If the household is determined to be eligible for LIPAP assistance, the
3 department shall notify the household in writing of the amount of LIPAP assistance for which
4 the household is eligible. If the household is ineligible, the department shall notify the household
5 in writing of the reason for ineligibility. Any notice pursuant to this section shall include
6 information regarding the household's right to a fair hearing.

7 Section 9. The department shall make any payments pursuant to this Act directly to the
8 household. The payments shall be made within twenty-one days after the department notifies the
9 household of eligibility.

10 Section 10. Monthly LIPAP payments shall continue to be made to the household until one
11 of the following occur:

- 12 (1) The household has reached its maximum benefit;
- 13 (2) The household no longer has pharmaceutical drug expenses;
- 14 (3) The fiscal year has ended;
- 15 (4) The funds available for the LIPAP payments have been exhausted.

16 Section 11. Once the LIPAP benefit has been determined, the department may not make any
17 adjustments to the benefit level due to changes in income, family size, or pharmaceutical drug
18 cost.

19 Section 12. A household may only be determined eligible for LIPAP assistance once during
20 the fiscal year. The department shall consider it a duplicate payment if a member of a household
21 previously determined eligible for LIPAP assistance leaves that household and later applies for
22 assistance either as a separate household or as part of another household.

23 Section 13. Any LIPAP payment made as a result of a department error or a recipient error
24 is considered an overpayment and is subject to recovery by the department.

1 Section 14. There is hereby established the low income pharmaceutical assistance fund. One
2 million dollars of the interest credited to the tobacco prevention and reduction trust fund shall
3 be transferred to the low income pharmaceutical assistance fund.

4 Section 15. There is hereby appropriated from the low income pharmaceutical assistance fund
5 the sum of one million dollars (\$1,000,000), or so much thereof as may be necessary, to the
6 secretary of the Department of Social Services for the low income pharmaceutical assistance
7 program as provided for in this Act.

8 Section 16. The secretary of social services shall approve vouchers and the state auditor shall
9 draw warrants to pay expenditures authorized by this Act.

10 Section 17. Any amounts appropriated in this Act not lawfully expended or obligated by
11 June 30, 2002, shall revert in accordance with § 4-8-21.